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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,857	10/25/2001	Steven Hilles Taylor	9D-HR-19764	9984

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/682,857	Applicant(s) TAYLOR ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 as presently amended, the phrase “and an adjacent surface of said one of said bottom mullion engagement portion and said casing” is deemed to indefinite since it is not clear how the “engagement surface” may be received between the “tongue” and the “mullion engagement portion” in view of the disclosure as originally filed. It is viewed that applicant would need to recite “comprising a retaining tongue and an adjacent surface” [in line 6 for example] so as to provide a clear basis for a recitation of “an engagement surface for being received between said tongue and said adjacent surface” [as an example] in order for the claim to be definite and properly set forth the metes and bounds of the patent protection desired. Claim 5 is deemed to be indefinite since the limitation “bottom panel comprising a retaining tongue” appears to be a double inclusion of the previously defined “retaining tongue” as disclosed in claim 1. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kordes [U.S. Patent No. 4,134,626]. As to claim 1, Kordes (figures 1-7) teaches of a refrigeration appliance cabinet comprising: a “bottom” mullion (30 e.g., - it is noted that no special significance is being attributed to the adjective “bottom” with respect to the claimed element “mullion” since the descriptor does not further define the element structurally) comprising a pair of adjacent channels (depicted in fig. 4 – top channel opening to the right while the bottom channel opens to the left) and an engagement portion (lower flat portion of the bottom mullion as depicted in fig. 4) proximate a base portion of an adjacent channel of the pair of channels; and a casing (12) comprising a retaining tongue (18) and an adjacent surface (top surface of 14 in fig. 4); the mullion engagement portion including an engagement surface (viewed as the surface of the lower flat portion) for being received between the tongue and the adjacent surface (note fig. 4 – the engagement surface is between the tongue (top) and the adjacent surface (bottom)). As to claim 2, the cabinet further comprises a bottom rail ((36) – it is noted that no structural or functional characteristics have been accorded to this limitation and therefore the limitation has been interpreted in a reasonably broad manner) that is received in one of channels of the mullion (bottom channel – fig. 5). As to claim 3, the cabinet further comprises at least one inner liner (24), and foam insulation (28) between the liner and the casing (fig. 6). As to claim 4, the liner being

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received within one of the channels of the mullion (top channel – fig. 5). As to claim 5, the casing including a bottom panel (16 for example) and the bottom panel comprises the retaining tongue, wherein the bottom mullion comprises an extended flat portion (at the end of lower flat portion of the engagement portion as noted above in claim 1) for “press fit” engagement with the tongue (fig. 5) so far as broadly claimed.

As to claim 6 Kordes (figures 1-7) teaches of a refrigeration appliance cabinet comprising: a bottom mullion (30 e.g.,) comprising a pair of adjacent channels (depicted in fig. 4 as noted above) and an engagement portion (lower flat portion of the bottom mullion as depicted in fig. 4 as noted above), wherein one of the channels includes a “reinforcing section” (viewed as the curved “section” linking the engagement portion to the upper channel structure – the curved section having inherent “reinforcing properties” due to the curved structure i.e., not readily deformed in comparison with a straight flat structure) with the engagement portion extending from the section (extends to the left); and a casing (12) in “press fit” engagement with the mullion engagement portion (fig. 5) so far as broadly claimed. As to claim 7, the casing having an outer surface (surface of element 16) and a fastening projection (viewed as element 18) extending from the outer surface. As to claims 8 & 10, the mullion engagement portion comprises a flat engagement surface (top facing surface of the flat portion) and the projection engages the engagement surface (note fig. 5). As to claim 9, the fastening projection (18) comprises a tongue (viewed as element 36), so far as broadly claimed, that is separated from the engagement surface as readily apparent to the examiner.

As to claim 11, Kordes teaches of a casing (12), an inner liner (24) within the casing and comprising at least one compartment [interior compartment of the

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refrigerator]; and a mullion (30), the mullion having a pair of adjacent channels (as noted above), the mullion configured to receiving a portion of the inner liner (top channel – fig. 5) with one of the channels, and the casing configured to receive a portion of the mullion with “press fit” engagement (fig. 5) so far as broadly claimed. As to claim 12, the cabinet further comprises a lower rail (36 – see disclosure above) that is configured to be received in the other channel of the mullion (bottom channel – fig. 5). As to claim 13, the mullion comprising opposing side surfaces (any of the “side surfaces” will suffice for examination purposes – see fig. 5, such as the side surfaces defining the ends of each channel), with one channel receiving the lower rail and the other channel receiving the inner liner (as noted above). As to claim 14, the cabinet comprises a bottom panel (viewed as either 16 or 14 & 16 together for example), the bottom panel comprising a tongue (18) for secure coupling to the bottom mullion (fig. 5). As to claim 15, the bottom panel (now viewed as (14) for example) comprises a “clip” (16), with the tongue (18) extending from the clip as best understood by the examiner.

Response to Arguments

5. Applicant's arguments filed October 15, 2004 have been fully considered but they are not persuasive. As presently put forth, the examiner deems the prior art rejections to adequately address 1) the claimed limitations structurally and functionally and 2) applicant's remarks now of record.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
January 18, 2006